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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,133	07/25/2003	James M. Biggerstaff	Bigger 0503-01	3926
26639	7590	07/27/2004	EXAMINER	
JAMES R. HEAD 28926 SOUTH 593 RD. GROVE, OK 74344			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/627,133	Applicant(s) BIGGERSTAFF, JAMES M.	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

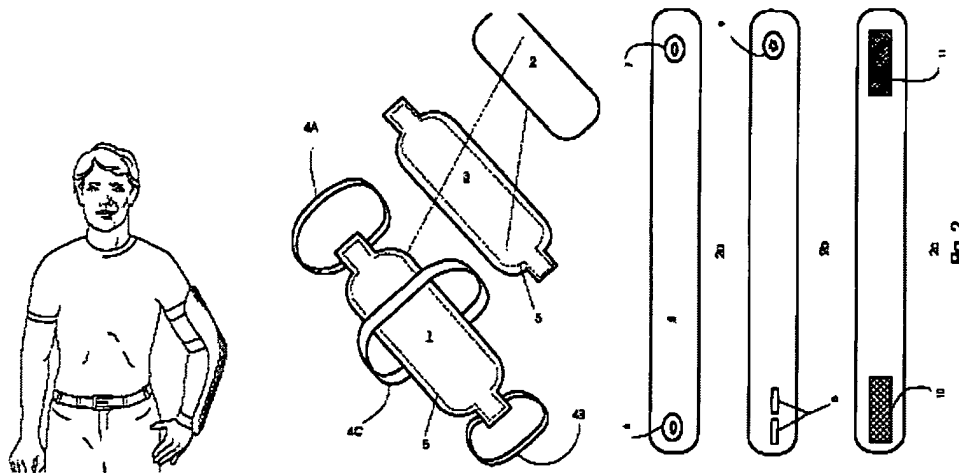
Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Faison (US 6,243,867).

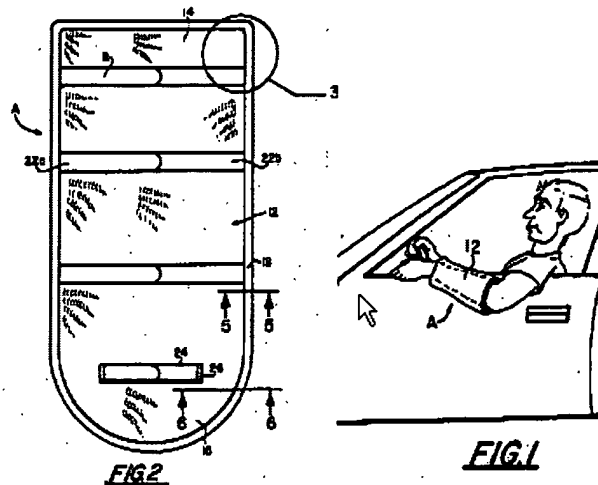


In regards to claims 1-3, Faison provides a garment having a piece of flexible material (1) covering the top portion of the limb of a user. The material (1) being supported by spaced first and second elastic bands (4B, 4C), leaving the portion of the limb below the flexible material (1) to receive unobstructed air circulation around the portion of the limb. The piece of flexible material (1) is capable of protecting the top portion of the user's arm covered by the flexible material from the sun's rays. The portion of the limb of the user being protected is essentially a radius portion of the

Art Unit: 3765

human forearm between a wrist and an elbow (column 2, lines 57-67). The first elastic band (4B) is contiguous to the wrist and the second elastic band (4C) is contiguous to the elbow joint.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Pryor (US 5,056,157).



In regard to claims 1 and 2, Pryor provides a garment (A) for protecting the exposed portion of a human limb from the sun's rays comprising a piece of flexible material (12) covering the top portion of the limb and the material being supported by spaced first and second elastic bands (2, 24)(column 2, lines 56-60). The portion of the limb below the flexible material (12) receives unobstructed air circulation around the portion of the limb (column 1, lines 61-65). The limb being protected is essentially a radius portion of the human forearm between a wrist and an elbow (figure 1, identifiers 12 and A).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faison.

In regard to claim 7, Applicant claims the elastic bands being of a breathable weave and protective from the sun.

It would have been obvious to one having ordinary skill in the art that the elastic bands of Faison being made from elastic fabric ribbons would have a breathable weave, since standard elastic bands are woven and have breathability.

It would have been further obvious to one having ordinary skill in the art that the elastic bands of Faison would be protective from the sun, since any fabric placed against a user's skin provides protection from the sun to some degree.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faison in view of Edwards et al. (US 6,037,280).

Faison provides an arm band as described above in claims 1-3 and further includes ornamental or informational design located thereon. However, Faison fails to teach the arm band providing at least 30 SPF sun block protection.

Edwards et al. provides a fabric containing ultraviolet ray blocking particles (column 2, lines 10-15). The fabric can be used to make articles of clothing and the UV

Art Unit: 3765

blocking fabric has an SFP value of at least 25 (column 2, lines 15-19 and column 24-25).

It would have been obvious to have provided the arm band of Faison with the fabric material containing SPF protection of Edwards, since the arm band of Faison having one of it's layers constructed of a UV blocking fabric having an SPF value of at least 25 would provide an arm band that can not only wipe perspiration from the user's body but also protect the user's arm from harmful UV rays.

Allowable Subject Matter

7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 8 is allowed.

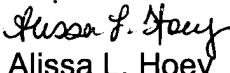
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller, Barnett, Sotherlin, Hanrahan et al., Kelly, Smith, Klien, Hamilton et al., Bassett et al., Kast et al., Fragomeli, Cordon, Weaver, Fickle, Wilson, Tomlinson et al., Williams IV, Redman et al., Newman and Martin are all cited to show closely related garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alissa L. Hoey
Patent Examiner
Technology Center 3700